

Appl. No. 09/845,036  
Amdt. dated September 16, 2004  
Reply to Office Action of June 16, 2004

PATENT

### REMARKS/ARGUMENTS

Claims 1-20, 46, and 75 were previously canceled. Claim 32 was previously withdrawn. Claims 21-45 and 47-74 are presently under examination and now stand substantively rejected. Claims 21, 22, and 28-31 are amended, and claims 76-80 are added by this amendment. Reconsideration of the claims is respectfully requested. The paragraph numbering below follows that of the Office Action. Support for the claim amendments can be found throughout the specification, and at least at page 4, lines 15-16 and at page 7, lines 6-12. Support for the new claims can be found throughout the specification, and at least at page 17, line 27 to page 18, line 5.

#### Rejection Under 35 U.S.C. §102

¶3. Claims 21, 22, 24-31, 33-35, 45, 48, 50, 56, and 59 were rejected under 35 U.S.C. 102(b) as allegedly anticipated by PCT Publication No. WO 98/54226 to Hodgkinson et al. ["Hodgkinson"]. This rejection is overcome as follows.

In general terms, claim 21 is drawn to a method of making a harvested mammary secretion product comprising an antibody specific for an antigen by hyperimmunizing a farm-animal for the antigen, administering the antigen to a mammary gland and/or a supramammary lymph node of the farm-animal, and harvesting the mammary secretion product from the farm-animal. As amended, the method of claim 21 includes the step of hyperimmunizing a farm-animal for the antigen via, inter alia, inhalation through an airway of the farm-animal.

Hodgkinson discusses oral administration, but fails to teach or suggest the presently claimed hyperimmunization claim element. At page 2, lines 37-38, Hodgkinson, in characterizing Swiss Patent No. 1,573,995, describes an immunization protocol that involves *oral ingestion*. It is submitted that, absent evidence to the contrary, the term "ingest" in this sense refers to taking into the stomach or alimentary canal via the mouth, which is different from taking into the body via inhalation through an airway. Therefore, the presently claimed airway inhalation hyperimmunization element does not read on the oral ingestion step discussed in Hodgkinson.

Appl. No. 09/845,036  
Amdt. dated September 16, 2004  
Reply to Office Action of June 16, 2004

PATENT

To anticipate a claim under §102, the reference must teach every element of the claim. Because Hastings fails to teach every element of amended claim 21, Applicant respectfully requests withdrawal of this rejection.

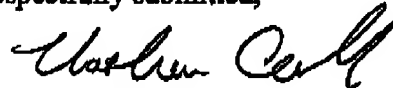
Amended claim 22 recites hyperimmunization via inhalation through an airway, and is allowable for the reasons given above. Similarly, amended independent claims 28-31 also recite administration routes which are not taught or suggested in Hodgkinson. Withdrawal of the rejection as applied to these claims is respectfully requested for the same reasons given above with respect to claim 21. What is more, Applicant submits that dependent claims 23-27, 33-45, and 47-74 are allowable because they depend from allowable base claims, as well as for the novel combination of elements they recite.

#### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Nathan S. Cassell  
Reg. No. 42,396

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
NSC:nap  
60290241 v1